

POLICY FOR TRANSITION AND PRE-EMPLOYMENT TRANSITION SERVICES

TRANSITION DEFINITIONS

A **student with a disability** is an individual with a disability in a secondary, post-secondary, or other recognized education program who is between the ages of 14-21, is eligible for, and receiving, special education or related services under Part B of the Individuals with Disabilities Education Act (IDEA), is an individual with a disability under Section 504 of the Rehabilitation Act, or students with disabilities including but not limited to: physical, sensory, intellectual, mental health, and communication.

A **youth with a disability** is any individual with a disability who is between the ages of 14-24, regardless of education status.

Transition services means a coordinated set of activities for a student or youth with a disability:

- Designed within an outcome-oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, competitive integrated employment, supported employment, continuing and adult education, adult services, independent living, or community participation;
- Based upon the individual student's or youth's needs, taking into account the student's or youth's preferences and interests;
- Including instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation;
- Including promoting or facilitating the achievement of the employment outcome identified in the student's or youth's individualized plan for employment; and
- Including outreach to and engagement of the parents, or, as appropriate, the representative of such a student or youth with a disability.

Pre-employment transition services (Pre-ETS)

Pre-ETS are provided to students with disabilities in order to:

- Further develop an awareness of career and education opportunities
- Gain the general skills needed for employment success in any field
- Gain the skills needed to effectively advocate for themselves as they prepare to exit secondary education and enter the workforce or other post-school activities

Services shall be provided to students with disabilities, regardless of whether the student has applied or been determined eligible for vocational rehabilitation services. These services are:

1. **Job Exploration Counseling** - career counseling designed to assist students explore career options, develop motivation for employment, and understand the role of high school and post-secondary education;
2. **Work-Based Learning Experiences** - use the workplace or realistic work situations to provide students with the knowledge and skill that will help them connect school to future career opportunities. These experiences augment the learning process and can include both in-school and after school opportunities, as well as experiences outside the traditional school setting such as internships;
3. **Counseling on Post-Secondary Education** - counseling and guidance on a variety of post-secondary education and training opportunities including community colleges, colleges, and universities; career pathway related workshops/training programs; trade/technical schools; military; and post-secondary programs at community colleges, colleges, and universities for students with intellectual and developmental disabilities;
4. **Workplace Readiness Training** - provided to develop the skills and behaviors that are necessary in any job, including specific social or interpersonal skills and independent living skills that are required for employment success; and
5. **Instruction in Self-Advocacy** - supports a student's ability to effectively communicate, negotiate, and/or assert his or her own interests and/or desires, including the development of the skills necessary for self-determination.

Auxiliary aids (qualified interpreters, acquisition of assistive technology, brailled materials etc.) and services needed by a student with a disability to access or participate in Pre-ETS would constitute allowable Pre-ETS expenditures and, therefore, may be paid with the funds reserved for that purpose.

Additional guidance and descriptions of each pre-employment transition service can be found at <http://www.wintac.org/topic-areas/pre-employment-transition-services>.

COORDINATION WITH EDUCATION

Vocational Rehabilitation (VR) has coordinated with officials of the Department of Public Instruction (DPI) around development and application of policies and practices with regard to the planning and provision of Pre-ETS and transition services to students and youth with disabilities. VR and DPI shall maintain a state-level formal Memorandum of Understanding related to the planning and provision of transition services. This agreement includes the roles and responsibilities of each agency including:

- financial responsibilities;
- provisions for determining state lead agencies and qualified personnel responsible for transition services; and
- procedures for outreach to and identification of students and youth with disabilities.

DVR staff shall use the MOU as a guide to the delivery of transition services in collaboration with local education providers. [Click to view MOU](#)

Every supervisor and rehabilitation counselor has responsibility to liaison with the local school districts, cultivate relationships, and provide education and information to partners. VR maintains specific staff to function as liaisons with each school in the state. VR staff will develop and coordinate a set schedule (day of the week or month) with school personnel for appointments and meeting with students at the school.

CONSULTATION/TECHNICAL ASSISTANCE

DVR will provide consultation and technical assistance to education agencies in planning for the transition of students and youth with disabilities from school to post-school activities, including vocational rehabilitation services.

DPI, VR and Local Education Agencies (LEA) will share the following responsibilities:

- Provide consultation and technical assistance to local VR and LEA either in person or through alternative means, such as conference calls and video conferences;
- Utilize a common message when sharing information to local VR offices and LEA;
- Encourage LEA and VR staff to collaborate through their local Transition Community of Practice in planning and implementing efforts that are focused on the transition of students with disabilities;
- Identify and disseminate information about transition services, employment services, effective practices, training, and funding strategies that create positive employment outcomes for individuals, partners, families, agency staff, and public and private stakeholders;
- DPI and DVR leadership are to inform each other and the local LEA and VR staff about policies or procedural changes that may impact transition services; and
- Provide technical assistance to identify potentially eligible and VR eligible students.

OUTREACH

VR will initiate outreach to students and youth with disabilities to identify those who are in need of transition services. Eligibility for VR services typically is determined two years prior to the students exit from secondary education. Eligibility may be determined prior to this typical timeline based on the need and expressed interest of the student. School districts shall be provided with contact information for the local VR office.

VR will inform education staff, students, youth, and, as appropriate, families and authorized representatives regarding:

1. A description of the purpose of the vocational rehabilitation program;
2. Information regarding VR eligibility requirements;
3. Information regarding application procedures; and
4. Information about the scope of services that may be available to students and youth with disabilities.

IDEA mandates that local education agencies invite adult agency representatives, such as VR counselors, to mandated student-related meetings. These meetings are held for special education students at least annually. When VR staff is invited by a school district to attend a student meeting such as an Individualized Education Plan (IEP) meeting, the staff should consider how his or her involvement could be beneficial with regard to consultation, technical assistance, referral to VR, and the planning and coordination of service provision.

There may be times when a VR staff is not able to attend scheduled student-related meetings. Options for involvement beyond the physical presence of VR staff at the meeting could include the sharing of informational sheets and brochures, telephone conferencing, or other creative mechanisms developed at the local level.

In addition to student-related meetings, other opportunities to interact with educators, students, and families exist for VR participation. These may include parent nights, education staff meetings, school based agency events, career fairs, and others. Attendance at these events fosters and advances collaboration with education. Many regions within North Dakota have a local Community of Practice. It is expected that one or more VR staff participate on these local teams and one representative from each of the local teams (not necessarily VR staff) reports back to the State Community of Practice.

POINT OF REFERRAL AND APPLICATION

Local VR and education staff shall identify a consistent system for referrals to VR. Typically students should be referred two years before exiting school. Referrals should be a collaborative effort between education and VR, and should not be limited to just those students in special education. Earlier referrals for students with more profound disabilities may be considered.

Students with disabilities may access Pre-ETS prior to submitting an application to VR and prior to VR eligibility determination. This type of service may begin when a student requests it, or if the student has been recommended to receive one or more Pre-ETS, and has shown documentation of a disability. A student seeking these services must provide VR with the data collection tool (SFN 680) which references their disability and is signed by a school representative. The student may choose to apply to VR in order to determine if he or she is eligible for a more comprehensive scope of vocational rehabilitation services.

If a youth is considering withdrawing from high school, encourage the individual to stay in school and obtain their high school diploma. If a student decides to withdraw from school, VR staff shall encourage him or her to obtain their GED. Whenever possible, VR shall work with the high school staff to plan and support collaborative services that will lead to completion of an appropriate course of study and a successful employment outcome.

Open communication between VR and education staff, the youth, and his or her family members will help to ensure a comprehensive and collaborative approach to transition

services that fully address the youth's needs, which may also require coordination with services available from other community organizations.

SCHOOL RECORDS

Education professionals have a wealth of information about a student's impairment and functional limitations, written from an academic perspective, which hold relevance when considering vocational functional limitations for VR eligibility and developing the Individualized Plan for Employment (IPE).

VR staff, with a signed release of information provided by the student, youth, parent, or guardian, shall obtain all appropriate school records including medical, psychological, vocational, educational, recreational and other informational records relating to the student or youth's disability, impediments to employment and rehabilitation needs. Whenever possible, and prior to the purchase of additional assessment, educational records shall be utilized by the VR counselor.

Signatures on education records are unlikely. In place of actual signatures, the VR counselor shall accept documents which contain the names and credentials of the Special Education Team members who participated in IEP meetings or who administered educational assessments. These records from educators responsible for the public education of students with disabilities shall be considered to be records from qualified personnel.

For VR eligibility and IPE development, types of information requested from a local education partner on potentially eligible students **may** include:

- Individualized Education Program (IEP)
- Summary of Performance (SOP)
 - Supporting assessment summaries and scores
 - Assistive Technology (AT) record
 - Transition-focused assessment
 - Work experience information
 - Sample resume
 - Interest inventories
 - Psychological assessments
 - Therapists records including but not limited to: Occupational, Physical, Speech, and Health (Nurse)
 - All Pre-ETS provided

Education Designations

Referrals to VR from school systems are typically students who receive services under IDEA and therefore have a categorical special education disability designation (for more information on IDEA go to <http://idea.ed.gov/explore>). These designations align with corresponding federal terms, requirements, and terminology used in the field. An eligibility criterion for each designation is determined by members of a multidisciplinary education team of qualified personnel with appropriate professional credentials.

Education officials responsible for the public education of students with disabilities are considered by VR to be qualified personnel.

The twelve (12) educational disability designations determined and used by the public secondary education system are:

- Hearing impairment, including deafness
- Intellectual Disability (ID)
- Speech or language impairment
- Visual impairment, including blindness
- Multiple disabilities
- Deaf-blindness
- Autism Spectrum Disorder (ASD)
- Orthopedic impairment
- Other Health Impaired (OHI)
- Traumatic Brain Injury (TBI)
- Serious Emotional Disability (ED)
- Specific Learning Disability (SLD)

Section 504 is a part of the Rehabilitation Act of 1973 that prohibits discrimination based upon disability. Students with a Section 504 plan may also be referred for Pre-ETS and VR referral.

Students not receiving services under IDEA or Section 504 may also be appropriate for referral to VR and for Pre-ETS. Students with disabilities who are not recipients of special education services could be referred from related education providers including school administrators, counselors, therapists, nurses, general education teachers, and others. These may be students with a disability that do not present a barrier in the academic environment, but may present impediments to employment.

IEP/IPE PLANNING AND COORDINATION

Typically, students will need a Transition Assessment Individualized Plan for Employment (TA IPE) as they participate in career exploration and other assessments needed to assist them in identifying their long term goal. If the student has an employment goal that is agreed upon by the VR counselor, the regular IPE may be developed. Either type of IPE needs to be developed within 90 days from eligibility determination, but the regular IPE must be developed prior to the student exiting school.

VR staff, in cooperation with education staff, shall participate in the planning process that is designed to facilitate the development and completion of the IEP. The VR counselor shall review and consider a student's IEP during the development of their VR IPE. Services reflected on the IEP may or may not need to be included in their VR IPE depending upon the employment goal and individual situation of each student, but can serve as a vital starting point when providing Pre-ETS or transition services.

Once either type of IPE is developed and approved, there will be two active plans for the client, the IPE and the IEP, each reflecting coordinated goals and a range of

services for a period of time. Collaborating with education staff to align the two plans can contribute in a positive manner for the student to gain basic workplace skills, knowledge of specific occupational skills, and an understanding of different industries in order to make an informed choice.

COORDINATION REGARDING SUBMINIMUM WAGE

Section 511 of the Workforce Innovation and Opportunity Act (WIOA) is intended to place limits on the payment of subminimum wage to individuals with disabilities, using special wage certificates under Section 14(c) of the Fair Labor Standards Act (FLSA). Prior to obtaining employment compensated at subminimum wage, youth 24 years old or younger must participate in certain services and provide verification of having completed these services to their prospective employer.

Section 511 – Requirements for Youth

- Receipt, as applicable, of Pre-ETS under the VR program or transition services under IDEA
- Application for VR services that results in a determination of ineligibility and;
- Receipt of career counseling and information and referral services.

For each youth with a disability pursuing subminimum wage employment, VR will accept the youth's application and ensure the youth has completed transition services, including Pre-ETS. The VR counselor will engage in the vocational rehabilitation process with each applicant.

Prior to seeking subminimum wage employment, a youth will either be determined ineligible for VR services due to the severity of his or her disability, or be determined eligible and be unsuccessful when provided with appropriate supports, in obtaining a competitive integrated employment outcome. This includes supported employment or customized employment, after the provision of services under an IPE for a reasonable period of time. The determination of a reasonable period of time will vary for each youth based on the individual's disability and vocational needs, including supported employment, and the anticipated length of time to achieve the employment outcome identified on the IPE.

At the time of closure for either of these reasons, VR will provide career counseling, along with information and referral services to other programs that offer employment-related services and supports designed to enable the youth to explore, discover, experience, and attain competitive integrated employment, and facilitate informed choice and decision-making by the youth, or authorized representative as appropriate. If a youth refuses to participate in any of the required activities, VR will ensure the youth understands he or she would not be legally able to pursue subminimum wage employment. VR will provide the youth or authorized representative with documentation of the refusal and keep a copy for the VR file. This documentation must be provided to the youth within 10 days.

All case management activities and services provided to youth seeking subminimum wage employment follow the confidentiality laws established by Family Educational Rights and Privacy Act (FERPA) and be documented and maintained in the youth's

service record with VR. In addition, VR will provide the youth with documentation of all required activities, within 45 days of the VR case closure. If additional time is needed due to extenuating circumstances beyond VR's control, the documentation shall be provided within 90 days.

Memorandum of Understanding

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The Individuals with Disabilities Education Act (IDEA) and the Rehabilitation Act require State Educational Agencies/Departments and Vocational Rehabilitation agencies to plan and coordinate transition services, as well as pre-employment transition services (Pre-ETS) for students with disabilities through a formal interagency agreement (Section 612(a)(12) of the IDEA and Section 101(a)(11)(D) of the Rehabilitation Act). Additional references used in this document include Sections 113 and 511 of the Rehabilitation Act, and the Final Rule: State Vocational Rehabilitation Services Program; State Supported Employment Services Program; and Limitations on Use of Subminimum Wage.

This Memorandum of Understanding (MOU) is entered into by the North Dakota Department of Human Services, Division of Vocational Rehabilitation, hereinafter referred to as VR, and the North Dakota Department of Public Instruction, hereinafter referred to as DPI.

Purpose

The purpose of this MOU is to ensure the establishment of a coordinated service delivery system between DPI, local education agencies (LEA), and VR, including:

- Consultation and technical assistance provided to DPI and LEA throughout the state to facilitate the transition of students with disabilities to VR services and the method and means by which the VR agency will provide consultation and technical assistance to the school systems throughout the state;
- Transition planning process to facilitate the development and completion of Individualized Education Programs (IEP) for students with disabilities, including how individualized planning will be coordinated by the VR agency and LEA, with specific duties of the personnel from both agencies;
- Roles and responsibilities of each agency, including financial responsibilities, throughout the student's transition process. A description of which agency has the lead for the provision of each service required for students with disabilities transitioning from school to VR services;
- The procedures for identification of and outreach to students with disabilities who may benefit from transition services; and
- In accordance with 34 CFR 397.31 VR, DPI, and LEA will not enter into a contract or other agreements with an entity for the purpose of operating a program under which a student with a disability is engaged in work compensated at subminimum wage (required in Section 511 of the Rehabilitation Act).

Consultation and Technical Assistance

Joint Responsibility:

- Provide consultation and technical assistance to local VR and LEA either in person or through alternative means, such as conference calls and video conferences;
- Utilize a common message when sharing information to local VR offices and LEA;

- Encourage LEA and VR staff to collaborate through their local Transition Community of Practice in planning and implementing efforts that are focused on the transition of students with disabilities;
- Identify and disseminate information about transition services, employment services, effective practices, training, and funding strategies that create positive employment outcomes to agency staff, partners, families, individuals, and public and private stakeholders;
- DPI and VR are to inform each other and the LEA and VR staff about policies or procedural changes that may impact transition services; and
- Provide technical assistance to identify potentially eligible and VR eligible students.

Transition and Pre-Employment Services Planning

Joint Responsibility of VR and DPI:

- Facilitate and coordinate the smooth transition of students with disabilities from school to post-school activities, including the receipt of Pre-ETS, transition services, and other VR services;
- Provide training to LEA and VR counselors to assure transition and pre-employment services training will include activities such as the development and implementation of their IEP under Section 614(d) of the IDEA, coordination on Pre-Employment Services under Section 113, Accommodations under Section 504, and those related to Limitations on Sub-Minimum Wages under Section 511 of the Rehab Act of 1973, as amended;
- Share current research findings and exchange professional literature on an ongoing basis;
- Collaborate on the provision of ongoing joint staff training and cross training of staff to ensure operational activities continue to meet the needs of the parties involved. Part of this training will include a two day transition training/conference every other year, and will be coordinated by the statewide Transition Community of Practice;
- Encourage volunteer employment opportunities and place emphasis on competitive employment opportunities;
- Facilitate the local level engagement of potential employers to provide job shadows, work experience, etc. for students with disabilities;
- Provide training to local level LEA and VR to assure that the Individualized Plan for Employment (IPE) that VR develops for a student with a disability who is receiving special education services should be coordinated with the IEP the LEA develops in terms of the goals, objectives, and services identified;
- Provide training and oversight to assure Transition Plans demonstrate a coordinated set of activities that prevent a break in services for students as they transition; and
- Provide information that will inform students and their parents of the availability of the Client Assistance Program, a dispute resolutions program available to VR clients and participants in rehabilitation programs receiving federal funding.

VR Responsibility:

- VR Regional Administrators are responsible to ensure VR staff are available to serve students attending the LEA;

- Determine eligibility for VR service and provide rehabilitation services to school-aged students with disabilities when referred by the LEA;
- The IPE should be developed for students who are two years from exiting school, allowing for a smooth transition planning process, at the latest, just before existing school; and
- Because the definition of a “student” with a disability for the VR program includes an individual with a disability for purposes of Section 504 of the Rehabilitation Act, it is broader than the definition under IDEA. VR agencies are authorized to provide transition services to this broader population of students with disabilities than LEA are authorized to provide under IDEA. Since the VR program may serve students with disabilities, including those individuals with a disability for purposes of Section 504 of the Rehabilitation Act, it is possible that these students may not have an IEP under IDEA, and therefore would not be eligible for or receiving special education or related services under IDEA.

DPI Responsibility:

- DPI will provide training and oversight to the LEAs to assure the following transition requirements of IDEA are followed:
 - DPI will encourage inviting VR to IEP meetings and other team meetings so VR can provide information, technical assistance, case consultation, and information/referral as needed for eligible or potentially eligible students;
 - Provide IEP team-determined transition services;
 - **Transition services** means a coordinated set of activities for a student with a disability that -
 - (1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child’s movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
 - (2) Is based on the individual child’s needs, taking into account the child’s strengths, preferences, and interests; and includes:
 - Community experiences;
 - Development of employment and other post-school adult living objectives;
 - Acquisition of daily living skills and provision of a functional vocational evaluation.

Outreach

Joint Responsibility of VR and DPI:

- VR and DPI will develop procedures for identification of and outreach to students with disabilities who are in need of transition services, such as information sharing at:
 - IPE meetings
 - Transition planning meetings
 - Back-to-School Nights

- Transition and Career Fairs
- Presentations
- Orientations

VR Responsibility:

- Inform applicants and eligible students with disabilities who are making the transition from programs under the responsibility of an educational agency to programs under the responsibility of VR, through appropriate modes of communication, about the availability of and opportunities to exercise informed choice; including the availability of support services for individuals with cognitive or other disabilities who require assistance in exercising informed choice throughout the VR process;
- Promote outreach to and identification of students with disabilities who are in need of transition services as early as possible during the transition planning process. Outreach to these students will include, at a minimum, a description of the purpose of the vocational rehabilitation program, eligibility requirement, application procedures, and scope of services that may be provided to eligible individuals. Outreach activities can include the use of brochures, social media, attendance at back-to-school nights, transition events, etc.
- Provide training to all VR counselors and qualified staff on their role in providing outreach activities to students with disabilities to include those served in special education, served under Section 504, and those served in general education; and
- Outreach activities are not exclusive to students with disabilities in special education, but should include those students with disabilities for purposes of Section 504 of the Rehabilitation Act; students with disabilities receiving school psychological, health, nursing or social work services; and students with disabilities enrolled in an educational program and not in special education. VR agencies may also outreach to youth with disabilities who have dropped out of an education program or students who are at risk of dropping out of high school.

DPI Responsibility:

- Work with VR to identify students with disabilities for referral to VR; and
- Work with VR to identify referrals and encourage an application for vocational rehabilitation services at least two years before students exit secondary education.

Coordination

Joint Responsibility of VR and DPI:

- Coordination of services for students with disabilities;
- Development of the process to document the completion of the required activities under Section 511 for youth who are 24 or younger and seeking subminimum wage, including:
 - Services provided by VR
 - Pre-ETS
 - Career Counseling
 - Information and Referral
 - Transition services provided by the LEA under IDEA

- Design and deliver cross-training sessions to the staff of both parties regarding competitive integrated employment as the preferred vocational outcome for students and youth with disabilities;
- Promote and disseminate information that gives individuals and families resources to envision a future that includes competitive integrated employment;
- VR and DPI will meet regularly with one another and Representatives of LEAs at the North Dakota Secondary Transition Community of Practice to address systems, policy, practice, and funding issues that facilitate or negatively impact the transition of youth with disabilities from school to work or post-secondary education; and
- DPI and VR will align policy and practice at the state level and as much as possible, at the local level, in order to facilitate the seamless transition of youth with disabilities from school to work or post-secondary education, minimize redundant services, and maximize resources in both systems.

VR Responsibility:

- Services include the provision of Pre-ETS for students who are eligible or potentially eligible for VR services; and
- Assist in the achievement of employment goals for individuals who have applied and been found eligible for VR services.

DPI Responsibility:

- Request consultation and technical assistance from VR when needed for planning and implementation of transition services;
- Provide all existing educational, medical, psychological, and career assessments through a release of information as necessary for a determination of eligibility by the VR agency;
- Provide special education and related services as developed and documented for students with disabilities in an IEP;
- Provide VR with documentation of completion of transition services or Pre-ETS for students with disabilities;
- Provide representation on the VR State Rehabilitation Council and relevant committee participation; and
- Encourage LEA to identify points of contact for field staff from VR.

Financial Responsibility

Joint Responsibility of VR and DPI:

- Parties to this MOU commit to the implementation of complementary programs to assist with the provision of transition and Pre-ETS to students with disabilities in the State, including students with the most significant disabilities, to enable them to achieve an employment outcome in competitive integrated employment;
- DPI and VR are financially responsible for the services they provide under their own laws and rules; and
- DPI and LEA are financially responsible for the cost of services it is mandated to provide under IDEA, Part B.

VR Responsibility:

- Provide outreach to all students with disabilities to make available Pre-ETS:
 - Job exploration counseling;
 - Work-based learning experiences, which may include in-school or after-school opportunities, experiences outside of the traditional school setting, and/or internships;
 - Counseling on opportunities for enrollment in comprehensive transition or post-secondary educational programs;
 - Workplace readiness training to develop social skills and independent living;
 - Instruction in self-advocacy.

DPI Responsibility:

- Nothing under Title I of the Rehabilitation Act shall be construed as reducing a LEA's obligation under the IDEA to provide or pay for transition services that are also considered special education or related services and that are necessary for ensuring a Free Appropriate Public Education (FAPE) to children with disabilities.

Release and Confidentiality of Information

Joint Responsibility of VR and DPI:

VR and DPI will agree to comply with the provision of the Workforce Innovation and Opportunity Act (WIOA), The Family Education Rights and Privacy Act (FERPA), and/or other applicable state and/or federal statute or requirement.

- State program use All personal information in the possession of the State agency or the designated State unit must be used only for the purposes directly connected with the administration of the VR program.
 - Information containing identifiable personal information may not be shared with advisory or other bodies that do not have official responsibility for administration of the program.
- In the administration of the program, the State unit may obtain personal information from service providers and cooperating agencies under assurances that the information may not be further divulged:
 - Release to applicants and eligible individuals if requested in writing by an applicant or eligible individual, the State unit must make all requested information in that individual's record of services accessible to and must release the information to the individual or the individual's representative in a timely manner.
 - Medical, psychological, or other information that the State unit determines may be harmful to the individual may not be released directly to the individual, but must be provided to the individual through a third party chosen by the individual, which may include, among others, an advocate, a family member, or a qualified medical or mental health professional, unless a representative has been appointed by a court to represent the individual, in which case the information must be released to the court-appointed representative.

- If personal information has been obtained from another agency or organization, it may be released only by, or under the conditions established by the other agency or organization.
- An applicant or eligible individual who believes that information in the individual's record of services is inaccurate or misleading may request that the designated State unit amend the information. If the information is not amended, the request for an amendment must be documented in the record of services.
- Release to other programs or authorities. Upon receiving the informed written consent of the individual or, if appropriate, the individual's representative, the State unit may release personal information to another agency or organization for its program purposes only to the extent that the information may be released to the involved individual or the individual's representative and only to the extent that the other agency or organization demonstrates that the information requested is necessary for its program.
 - Medical or psychological information that the State unit determines may be harmful to the individual may be released if the other agency or organization assures the State unit that the information will be used only for the purpose for which it is being provided and will not be further released to the individual.
 - The State unit must release personal information if required by federal law or regulations.
 - The State unit must release personal information in response to investigations in connection with law enforcement, fraud, or abuse unless expressly prohibited by federal or state laws or regulations, and in response to an order issued by a judge, magistrate, or other authorized judicial officer.
 - The State unit also may release personal information in order to protect the individual or others if the individual poses a threat to his or her safety or to the safety of others.
- (Approved by the Office of Management and Budget under control number 1820-0500) (Authority: Sections 12(c) and 101(a)(6)(A) of the Act; 29 U.S.C. 709(c) and 721(a)(6)(A)) [66 FR 4382, Jan. 17, 2001, as amended at 66 FR 7253, Jan. 22, 2001]

VR Responsibility:

- Cooperate and collaborate in all respects in the performance of this MOU, including sharing individual and service provider information. To the extent that any of such information is confidential pursuant to any federal or state statute or regulation, the party receiving that information shall ensure its continued confidentiality and use of such information only for the purposes set forth in this MOU;
- Protect confidential information and records and shall not release any confidential information or records to any other third party without the express written authorization of the client. Both parties shall comply with state and federal rules, regulations, and laws protecting the confidentiality of information.

The North Dakota Department of Human Services (Department) and its programs are covered entities under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the HIPAA Privacy Rule 45 CFR Parts 160 and 164 and is required to follow federal regulations on

Confidentiality of Alcohol and Drug Abuse Patient Records at 42 CFR Part 2, as well as state law. The Department and its programs comply with these confidentiality requirements as applicable to records and information that it uses or maintains in connection with this MOU.

DPI Responsibility:

- No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information of students without the written consent of their parents to any individual, agency, or organization);
- Consent Parental consent or consent from an eligible child who has reached the age of majority under state law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.
- Safeguards Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
- One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information;
- All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under §300.123 and 34 CFR Part 99, and
- Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

Accountability, Monitoring, and Reporting

Joint Responsibility of VR and DPI:

- **Identify staff to be responsible for monitoring and implementing this agreement;**
- **VR will make available annual participant/client reports to DPI. The report will capture information such as, type of employment services provided, the number of individuals served, service outcomes, wages, and other information pertinent to demonstrate the effectiveness and benefit of services. DPI will make available to VR, “Child Count” data annually.**

Resolution of Conflict/Enforcement

VR and DPI encourage coordination and conflict resolution to be addressed at the lowest possible level. If a local resolution cannot be achieved, the local staff members can request intervention from the highest level of VR and DPI. If a solution cannot be reached, or if the solution needs administrative or financial resources beyond the scope of their responsibility, the matter will be referred to the State Superintendent of DPI and the Executive Director of Department in charge of VR, for resolution.

This MOU recognizes that each party has its own administrative mechanisms for the timely resolution of internal disputes and that each party and its respective staff has specific responsibilities and operating procedures governed by applicable federal and state laws, rules,

and policies. Further, this MOU shall not be interpreted to limit, supersede, or otherwise affect either party's normal operations or decisions in carrying out its mission.

Term/Modification/Termination of MOU

This MOU shall take effect upon the date of the last signature affixed hereto and will remain in effect for a period of three years. This MOU may be amended or superseded in writing by the mutual consent of the authorized representatives of each Party. This MOU may be terminated by either Party for any reason upon 30-days' written notification transmitted to the agency point of contact. The 30 days will begin on the date the notification is transmitted electronically, or five days following the postmark date, if notification is mailed.

If any provision of the MOU is held invalid, the remainder of the MOU shall remain in full force and effect, so long as the purpose of the MOU can be continued.

Point of Contact

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